

Judge: Christopher M. Alston
Chapter: 13
Hearing Date: June 24, 2021
Hearing Time: 9:30 a.m.
Hearing Location: Telephonic
Response Date: June 17, 2021

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re:

JESSICA MCCOLL NEILSON,

Debtor.

IN CHAPTER 13 PROCEEDING
No. 18-14235-CMA

OBJECTION TO DEBTOR'S MOTION
FOR RELEASE OF PMI

Jason Wilson-Aguilar, Chapter 13 Trustee, objects to the debtor's Motion for Release of PMI (ECF No. 40). The Trustee does not take a position on the substantive relief sought by the debtor, but raises the following procedural concerns regarding the motion:

(1) The debtor appears to seek through the motion and associated proposed order (ECF No. 40-2) relief which is injunctive in nature, i.e. an order requiring creditor PNC to take specific action within 30 days. As such, it appears this relief would more properly be sought through an adversary proceeding, with the accompanying additional service requirements of such a proceeding. See Federal Rules of Bankruptcy Procedure 7001(7), 7004.

(2) There is no evidence that the motion was served. In any proceeding which is to be accorded finality, due process requires notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. *Mullane v. Central Hanover Bank & Trust Co. et al.*, 339 U.S. 306, 314 (1950). If the motion was not properly served, the motion should be denied.

The Trustee reserves the right to assert additional bases for his objection.

WHEREFORE, the Chapter 13 Trustee requests that the Court deny the debtor's motion.

OBJECTION TO MOTION TO RELEASE
FROM PMI - 1

Chapter 13 Trustee
600 University St. #1300
Seattle, WA 98101

1 Dated this 8th day of June, 2021

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3 /s/ Emily A. Jarvis, WSBA #41841 for

4 JASON WILSON-AGUILAR
5 Chapter 13 Trustee
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OBJECTION TO MOTION TO RELEASE
FROM PMI - 2

Chapter 13 Trustee
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Seattle, WA 98101